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Statement of
Michael P. Smith
President
New York Bankers Association
Before the
Subcommittee on Capital Markets, Securities and Government
Sponsored Enterprises
Committee on Banking and Financial Services

United States House of Representatives

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Chairman Baker, Congresswoman Maloney, and Members of the Subcommittee, my name is Michael P. Smith and I am the President of The New York Bankers Association (NYBA). I am pleased to testify before you today regarding The Children's Development Commission Act, H.R.1112, more commonly known as the "Kiddie Mac" legislation. The New York Bankers Association applauds your efforts to make affordable, quality child care a reality for this country. Our Association is honored to have this opportunity to comment on the Kiddie Mac proposal and to discuss the important goals of the legislation. Our Association represents community, regional and money center commercial banks in New York State with assets in excess of $900 billion and more than 210,000 employees.

The New York banking industry is committed to providing safe, effective and efficient banking services for consumers. Indeed, our Association has taken the lead over many years in working with the New York State Legislature to enact some of the most progressive pieces of legislation in the country for all consumers of banking services, including the elderly and lower income groups.

In 1978, for example, New York became one of the first states to enact its own version of the Community Reinvestment Act designed to ensure that banking services are provided to all neighborhoods within a bank's service area. When it became apparent that the regulations implementing CRA were in need of reform, New York became the first to propose revised rules in September 1992. The final Federal CRA regulations which went into effect in 1997 relied heavily on concepts developed in New York including the strategic plan. Among the banking services rewarded under the improved CRA regulations are efforts by individual banks to provide an expanded infrastructure in their neighborhoods, including support for quality child care.

The Association is also proud of the significant role it played in working to enact the most comprehensive basic banking law in the nation, which over the past five years, has helped many New Yorkers meet their special financial needs by offering to them the low-cost convenience of a basic banking transaction account.

In addition to its efforts with respect to CRA and basic banking, the Association has described the banking industry's commitment to the needs and concerns of its customers, in testimony several times in recent years on senior citizen banking issues, most recently in May of this year before the House Banking Committee's Subcommittee on General Oversight and Investigations pertaining to financial exploitation of the elderly. In that testimony, NYBA identified many of the protective features of New York's Banking Law designed to defend the financial and physical safety of senior citizens, including the ATM Safety Act and the convenience account, as well as the availability of a short-form power of attorney. This year, too, NYBA appeared before the New York State Senate Committee on Banks and The New York State Senate Committee on Consumer Protection, urging public education to dispel myths and customer concerns regarding the banks' preparedness for Y2K and appeared before The New York State Senate Majority Task Force on Privacy Invasion, where we stated our strong support for bipartisan Identity Theft legislation. Thus, as you can see, the Association and New York's banking industry are always available to work with the government to address issues of public concern and the needs of the consumer.

Accordingly, we appreciate the opportunity to appear at these hearings today to voice our support for meaningful child care legislation and to offer our insight into ways in which we believe this laudable goal could be most effectively accomplished.

Affordable, quality child care is an essential component of a strong modern society, particularly at a time when more than 80% of the female population (ages 24-54) is projected to be participating in the workplace by the year 2005. Furthermore, other socially beneficial programs such as welfare reform depend on the availability of affordable child care for mothers attempting to rejoin the workforce and support their families. However, as noted by the bill's sponsors, the existence of affordable and quality child care remains scarce.

The lack of affordable, quality childcare has been appropriately attributed, at least in part, to the difficulty in obtaining financing for what are often high risk investments. Childcare facilities often fail to meet the strict credit/risk standards needed to obtain appropriate financing, because such facilities are generally incapable of generating sufficient revenues to service their debt. This situation is particularly true in low income neighborhoods where fee income generated by tuition payments (much of which are state subsidized) cannot be relied upon to cover a large amount of debt service costs. Moreover, the costs associated with operating a day care center often cannot be reduced to generate additional dollars for debt service, without sacrificing the standard of child care and, in some cases, jeopardizing compliance with licensing standards. Consequently, despite the acknowledged need for child care facilities in low income neighborhoods, financing of such facilities often present insurmountable challenges to banks whose obligation lies in maintaining their institutions' safety and soundness.

H.R.1112 attempts to rectify this problem by proposing the Kiddie Mac program, which, modeled after the successful Fannie Mae and Farmer Mac programs, would offer guaranty insurance to financial institutions to provide incentives for them to make loans to potential child care facility builders. After discussions with member banks across our state, it is our belief that Kiddie Mac would be most viable in those situations in which one additional factor mitigating loan default risk could render an otherwise nonqualifying child care facility creditworthy.

Of course, in certain lower income, higher risk scenarios, the availability of guaranty insurance could not alone rehabilitate unsound loans. Loans to more traditional businesses can often be rehabilitated by the business doing two major things, the first being raising prices or otherwise generating additional fee income, and the second being cutting of expenses. As stated earlier in this testimony, in the child care industry, these options are often not available. Therefore, we believe, Kiddie Mac should be part of a broader package of private and public sector proposals, some of which I will discuss in this testimony.

In making these observations, our member banks in no way wish to discourage pursuit of quality affordable child care. Rather, they view the Kiddie Mac proposal as one viable component of broader legislation which ideally could include additional financial incentives such as tax credits to participating lending institutions, as well as, perhaps, tax credits to the child care facility developers themselves.

The Low Income Housing Tax Credit Program (Section 42 of the Internal Revenue Code of l986), for example, may provide a model for tax credit solutions for the financing of child care facilities. That program offers indirect "subsidies" for construction of new and the rehabilitation of existing rental housing, by providing investors with a dollar-for-dollar reduction in their federal tax liability in exchange for providing funds for the development of qualified, affordable rental housing. Through this program, the federal government (through the Internal Revenue Service) each year provides every state with $1.25 per capita in total tax credits. The states then set allocation criteria reflecting their individual housing policy goals, review applications submitted by developers and allocate the tax credits, while the IRS oversees the state agencies. After receiving their tax credit allocations from the state, individual developers assemble the financial resources for their projects. Developers may, if appropriate, themselves claim the tax credits. Typically, however, they sell them to investors or syndicators (who act as brokers between the developers and the investors) for up-front cash that is put into the projects' development. Syndicators then pool several projects into one tax-credit equity fund, and market the credits to investors. This program, which creates approximately 90,000 new rental units per year, has been greatly successful, and may offer a template for an additional mechanism to encourage the development of affordable child care facilities.

Needless to say, an ongoing, guaranteed ability to receive CRA credit for community development projects, can also provide additional incentives for bank participation in such programs. Examples of successful bank participation, can be found in several ongoing New York State programs which provide CRA credit to banks. For instance, the New York Business Development Corporation, a private company, financed in large part by over l50 New York State commercial and savings banks, provides a means of expansion and access to capital for small to mid-sized businesses, generally at below-market interest rates. Member banks who provide the money for such business loans, not only gain the satisfaction of participating in the economic health and development of New York State, but also generate interest income and the added incentive of CRA credit for their involvement.

Similarly, the State of New York Mortgage Agency which creates affordable homeownership opportunities for low and moderate income qualifying homebuyers by offering low down payment mortgage financing at below market interest rates for single family home buyers, also partners with a network of participating lenders (many of whom qualify for CRA credit for their participation) in achieving their laudable objectives. Perhaps most relevant to today's discussion, is New York Banking Department's "Adopt a Childcare Center" program. This program, which is strongly supported by Acting Superintendent

Elizabeth McCaul, enables participating banks to obtain **increased** CRA credit by making multi-year comprehensive commitments to qualifying day care centers. Such commitments include provision by banks of grants for capital or operating funds, as well as the offering of technical assistance to build the capacity of child care operations.

It is clearly not within our Association's domain to suggest or promote actual subsidy programs which could also be made a component of this legislation. Obviously, however, grants and aid programs authorized by the United States Congress as part of comprehensive child care legislation could, under certain circumstances, offer yet another venue for the promotion of quality child care.

Last, but by no means least, we wish to emphasize the role which private enterprises can play in helping children across our nation, regardless of the outcome of the proposed Kiddie Mac legislation. In this regard, I call your attention, for example, to General Colin Powell's endeavor, America's Promise, whereby members of local business communities' become involved in youth-related activities in their neighborhoods. NYBA has endorsed this nationwide effort to join corporations, non-profit organizations, philanthropic foundations, service providers, communities and national, state and local governments in this national Alliance for Youth. The American Bankers Association is supporting it across the country. To date, the ABA has recruited more than 1,000 Banks of Promise nationwide to participate in this program, which seeks to improve the lives of America's youth through volunteer and financial support of after-school programs, little league teams, boys and girls clubs, mentoring, tutoring and the like. Many of our New York banks were early and eager participants in the alliance. Programs like America's Promise, which include banks as well as many additional industry groups, obviously can be used as yet another tool in promoting quality child care nationwide.

The types of additional solutions which I have suggested today, coupled with the guaranty insurance contemplated by Kiddie Mac, I believe could provide a realistic, long term solution to this issue of great national concern.

Thank you for the opportunity to testify here today. I would be delighted to address any questions you may have.